REMARKS

I. The Restriction and Election of Species Requirements

The Examiner required restriction, under 35 U.S.C. §§ 121, 372, between the following groups as these inventions or groups of inventions allegedly are not so linked as to form a single general inventive concept under PCT Rule 13.1.

Group I	claims 1-2 and 12-14, drawn to a purified polypeptide, a method for making and using the polypeptide and an antibody against polypeptide.
Group II	claims 3-6 and 10-11, drawn to an isolated polynucleotide, a vector and a host comprising the polynucleotide
Group III	claims 7-9, drawn to another isolated polynucleotide
Group IV	claim 15, drawn to a purified agonist
Group V	claims 16 and 18, drawn to a purified antagonist and a method of using the same
Group VI	claim 19, drawn to a method treating or preventing an immune disorder
Claim VII	claim 20-21, drawn to a method of detecting a polynucleotide.

The Examiner further required an election of a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The Examiner identified:

Generic	The generic claims were identified as 1, 12 and 20.
Species I	The first species of polypeptide are: (1) SEQ ID NO:1, (2) SEQ ID NO:2, (3) SEQ ID NO:3, (4) SEQ ID NO:4 and (5) SEQ ID NO:5.

Species II The second species of nucleic acids are: (a) SEQ ID NO:6, (b) SEQ ID NO:7, (c) SEQ ID NO:8, (d) SEQ ID NO:9 and (10) SEQ ID NO:10.

In response to the restriction requirement, Applicants hereby elect, **with traverse**, Group II, claims 3-6 and 10-11, drawn to an isolated polynucleotide, a vector and a host comprising the polynucleotide.

In response to the election of species requirement, Applicants further elect claims 3-6 and 10-11 as drawn to an isolated and purified polynucleotide encoding the polypeptide of SEQ ID NO:2. The Examiner is reminded that a species election is solely for search purposes and that should the elected species be free of the prior art, the Examiner should follow the procedure in M.P.E.P. 803.02 and extend the search to the other species.

II. Group II And Group III Are Drawn To Claims Defining The Same Essential Feature

Applicants traverse the restriction requirement on the grounds that the claims of Groups II and III define the same essential characteristics of a single disclosed embodiment of the invention. Claims 3-6 and 10-11 of Group II and claims 7-9 of Group III vary in breadth or scope of definition, but nonetheless define the same disclosed subject matter. See, e.g., MPEP 806.03.

In Group III, claims 7-9 are drawn to polynucleotides specifically disclosed in the application. On page 14, lines 17-18, the application discusses that Table 1 shows the sequence identification numbers of amino acid sequences and the corresponding nucleotides encoding those amino acid sequences. Among these, Table 1 identifies SEQ ID NO:7 as encoding the amino acid of SEQ ID NO:2. Accordingly, as drawn to SEQ ID NO:7, claims 7-9 are directed to the same essential feature as the provisionally elected species of claims 3-6 and 10-11, namely a polynucleotide encoding the amino acid of SEQ ID NO:2.

As such, Applicants respectfully request rejoinder of Group III, claims 7-9 as drawn to the polynucleotides of SEQ ID NO:7, to Group II, claims 3-6 and 10-11, as drawn to polynucleotides encoding the amino acid of SEQ ID NO:2.

III. The Search Of Groups II And I Is Not Unduly Burdensome

Additionally, Applicants traverse the restriction requirement on the grounds that, in light of the provisionally elected species, the search and examination of at least Groups II and I (Group II is drawn to an isolated polynucleotide, a vector and a host comprising the polynucleotide and Group I is drawn to a purified polypeptide, a method for making and using the polypeptide and an antibody against the polypeptide) is not unduly burdensome. According to MPEP section 803 "if a search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent and distinct inventions." As the polynucleotides of Group II encode the polypeptides of Group I, Applicants suggest examination of at least Groups II and I can be made without serious burden to the Examiner.

IV. The Polypeptide Of Group I And The Polynucleotides Of Group II and Group III Exhibit Corresponding Special Technical Features

Applicants further traverse the restriction requirement because the unity of invention standard must be applied in national stage applications. Section 1850 of the Manual of Patent Examining Procedure (original 8th edition, published August, 2001) (hereinafter "MPEP") provides that

> when the Office considers international applications . . . during the national stage as a Designated or Elected Office under 35 U.S.C. 371, PCT Rule 13.1 and 13.2 will be followed when considering unity of invention of claims of different categories

> without regard to the practice in national applications filed under 35 U.S.C. 111 . . . .
>
> In applying PCT Rule 13.2 to . . . national stage applications under 35 U.S.C. 371, examiners should consider for unity of invention all the claims to different categories of invention in the application and permit retention in the same application for searching and/or preliminary examination, claims to the categories which meet the requirements of PCT Rule 13.2 . . . .

MPEP at page 1800-60 to -61.

MPEP section 1893.03(d) reiterates the Examiner's obligation to apply the Unity of Invention standard PCT Rule 13.2 instead of U.S. restriction/election of species practice:

> Examiners are reminded that unity of invention (not restriction) practice is applicable . . . in national stage (filed under 35 U.S.C. 371) applications.

Id. at page 1800-149, col. 1.

Indeed, according to Example 17, Part 2 of Annex B to the PCT Administrative Instructions, the Examiner is obliged to find that "the protein and the DNA sequence exhibit corresponding special technical features" and that, therefore, there is no lack of unity between claims directed to a protein "X" and the DNA sequence that encodes protein "X."

Thus, in the present case, unity of invention does exist at least as between claims 1-2 and 12-14, which cover in part the polypeptides of SEQ ID NO:2 and compositions thereof, claims 3-6 and 10-11, which cover in part the polynucleotides encoding those polypeptides, and claims 7-9 as drawn to the polynucleotides of SEQ ID NO:7 which encode the polypeptides of SEQ ID NO:2. Therefore, Applicants respectfully request that the Examiner withdraw the Restriction Requirement at least as to claims 1-14 as drawn to the polypeptides of SEQ ID NO:2 and the polynucleotides which encode the polypeptides of SEQ ID NO:2,

including the polynucleotides of SEQ ID NO:7, and examine those claims in a single application.

V. Conclusion

Applicants respectfully request withdrawal of the restriction requirement at least as to claims 1-14, corresponding to Groups I-III, as drawn to polypeptides of SEQ ID NO:2, and polynucleotides encoding those polypeptides, including the polynucleotides of SEQ ID NO:7.

If there are any fees due in connection with the filing of this response, please charge the fees to Deposit Account No. 19-0741. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should be charged to our Deposit Account.

Respectfully submitted,

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